

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WILLIAM MAYO,)	
)	
Plaintiff,)	Civil Action No. 16-1514
)	
v.)	Judge Cathy Bissoon
)	Magistrate Judge Lisa Pupo Lenihan
CORRECTIONAL OFFICER)	
FINLEY, <i>et.al.</i> ,)	
)	
)	
Defendants.)	

MEMORANDUM ORDER

This case was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Local Rule of Civil Procedure 72.

On March 24, 2017, the Magistrate Judge issued a Report recommending that Defendants' Partial Motion to Dismiss be granted in part and denied in part. The Magistrate Judge recommended the Motion should be denied with respect to Plaintiff's state tort claim of assault and battery against Defendant Finley and that the Motion should be granted in all other respects. (Doc. 27 at 1). Service of the Report and Recommendation was made on the parties. Plaintiff William Mayo timely filed objections. (Doc. 28).

After a *de novo* review of the issues raised in the objections, together with the Report and Recommendation, the following Order is entered:

The Partial Motion to Dismiss by Defendants Correctional Officer Finley, Lieutenant Lewis, Lieutenant Grego, and Superintendent Gilmore (**Doc. 22**) is **GRANTED IN PART AND DENIED IN PART**. It is DENIED with respect to Plaintiff's state tort claim of assault and

battery against Defendant Finley. It is GRANTED as it relates to: Plaintiff's Eighth Amendment conditions of confinement claim against Lieutenants Grego and Lewis; Plaintiff's Eighth Amendment deliberate indifference claim against Defendant Gilmore; Plaintiff's claims against Defendant Gilmore in his official capacity; Plaintiff's Due Process claims against Defendants Finley and Gilmore.

The Magistrate Judge's Report and Recommendation dated March 24, 2017, hereby is adopted as the Opinion of the District Court.

IT IS SO ORDERED.

July 10, 2017

s/Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via ECF email notification):

All counsel of record

cc (via First-Class U.S. Mail):

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